

Claims 8 and 19 were rejected under 35 USC 112, second paragraph, as being indefinite, and Claims 9-21 were rejected based on their dependency on claim 8. Specifically, the Examiner objected to the terminology "a hairiness value when measured with a Zweigle T690 Hairiness tester", finding it indefinite "for the lack of recitation to the chemical and structural features that produce the claimed hairiness value."

It is respectfully requested that the rejection be withdrawn. As described in the specification, one aspect of the invention is the achievement of a *sanded elastic* fabric having a low level of hairiness. As stated previously, conventional sanding processes for textile fabrics have heretofore been unable to achieve sanded elastic fabrics which do not have a high amount of fuzz on the fabric surface. In contrast, sanded elastic fabrics of the instant invention have a low level of fuzz on the surface, which is quantified structurally through a low level of hairiness, which is a measurable, reproducible test measurement. Therefore, this recitation clearly meets the requirements of 35 USC 112, second paragraph.

(“Determining whether a claim is indefinite requires an analysis of ‘whether one skilled in the art would understand the bounds of the claim when read in light of the specification... If the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, [section] 112 demands no more.’ “ Credle v. Bond, 30 USPQ 2d 1919 (Fed. Circ. 1994) citing Miles Lab, Inc. v. Shandon Inc, 997 F.2d 870 (Fed. Circ. 1993), cert denied, 114 S. Ct. 943 (1994).)

With respect to Claim 19, the Examiner stated that it was unclear what was meant by the term "bundles of loosened fibers." Applicants' respectfully traverse this rejection. As set forth in Applicants' specification on p. 4, sanding of the fabric in the manner of the invention functions to loosen the fibers in the yarn bundles without undesirably cutting them in the manner of conventional sandpaper. It is maintained that one of ordinary skill in the art would readily

appreciate the meaning of yarn bundles of loosened fibers, which would be a yarn bundle which has had at least some of its fibers loosened (e.g. such as by pulling them outwardly to some extent from the bundle), such as by processing it in the manner of the invention. Therefore, reconsideration and withdrawal of the rejections based on 35 USC 112 are respectfully required.

Claims 7-9, 11, 12 and 14-19 were rejected under 35 USC 102(b) as being anticipated by Rock et al. Specifically, the Examiner stated that "Rock et al discloses a double knit composite fabric having an inner layer comprising a plurality of polyester fibers and an outer layer comprising a mixture of polyester and cotton fibers", and "teaches replacing the polyester of the inner layer with a stretching polyester such as Dupont's LYCRA (i.e., spandex) to give the fabric elasticity", and "to impart softness, Rock et al. teaches sanding, brushing or napping the surface of the inner fabric to slightly raise the fabric." In addition, with respect to Claim 7, the Examiner stated that "the method limitation of abrading the fibers with a microfinishing film is not given patentable weight at this time since it is not shown that the microfinishing film produces a substantially different abraded surface over the sanded, brushed or napped surface of the prior art."

The Rock et al. patent is directed to a plaited double knit fabric. While Rock describes that the inner layer of his two layer fabric may be "sanded, brushed or napped", there is no disclosure or suggestion of using a microfinishing film to treat the surface of the Rock fabric. In other words, Rock is practicing the prior art processes described in Applicants' specification and illustrated in the drawings. As described in the instant application and illustrated in the figures, fabrics that are sanded in a conventional manner tend to have a high amount of fuzz on their surfaces, and therefore do not meet the hairiness levels described in the instant application. Therefore, Applicant has in fact shown that the claimed fabrics are "substantially different" from those made by prior art processes. Therefore, it is respectfully requested that the rejections be withdrawn.

Claims 10, 13, 15 and 20 were rejected under 35 USC 103(a) as being unpatentable over Rock as applied to Claim 8, in further view of Moore. Specifically, the Examiner acknowledged that Rock fails to disclose a Raschel warp knit fabric, but asserted that "Moore discloses a Raschel warp knit fabric comprising elastic and non-elastic filaments", and that it "would have been obvious to one having ordinary skill in the art at the time the invention was made to make the elastic garment of Rock et al. using the Raschel warp knit structure taught by Moore since Raschel knitting machines are commonly used to knit elastic filament structures."

Claims 10, 13, 15 and 20 are allowable for the reasons discussed above with respect to Rock reference. Moore simply describes an unsanded Raschel warp knit structure, and likewise fails to disclose or suggest a sanded elastic fabric with low hairiness, or the sanding of an elastic fabric with a microfinishing film in the manner of the instant invention. Therefore, it is respectfully requested that the rejection be withdrawn.

Claims 8 and 21 were rejected under 35 USC 102(b)/103(a) as being unpatentable over Rock et al. Specifically, the Examiner acknowledged that "the prior art of record does not explicitly teach the claimed hairiness value when measured with a Zweigle T690 Hairiness Tester of 0.07 or less", yet asserted that "it is reasonable to presume that the hairiness value is inherent to the Rock et al invention." The Examiner purported to provide support for this presumption through Rock's "use of the like materials (i.e. such as stretchable polyester) and the use of the like processes (i.e. such as abrading the surface by napping, brushing or sanding) which would result in the claimed property." In addition, the Examiner asserted that the "property of a hairiness value of less than .07 would obviously have been present once the Rock et al. product is provided."

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USPTO Customer No. 25280
Case No.: 2151

Claims 8 and 21 are allowable over Rock et al for the reasons described above. Specifically, Rock teaches sanding in a conventional manner (like the prior art figures shown in Applicants' Figs. 1A, 1B and 1C) which would have high levels of hairiness, and fails to disclose or suggest a sanded elastic fabric having low hairiness as claimed, or even one that has been processed using a microfinishing film as set forth in the invention. In other words, since Rock uses a process shown by Applicants to achieve fabrics outside the scope of Applicants' claims, then it is not reasonable to presume that the Rock fabric would "inherently" or otherwise have the claimed level of low hairiness. Therefore, it is requested that the rejection be withdrawn.

Applicants believe that an extension of time fee of \$920.00 is due, and the Commissioner is hereby authorized to charge this amount to Deposit Account No. 04-0500. If the USPTO determines that a further fee is due, the Commissioner if herby authorized to charge any additional fee to the same account.

Respectfully submitted,


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